

OFFICE OF THE GENERAL COUNSEL

MEMORANDUM GC 92-2

March 20, 1992

TO : All Regional Directors, Officers-in-Charge,
and Resident Officers

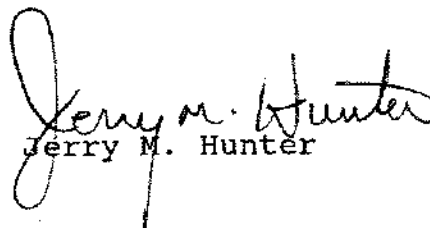
FROM : Jerry M. Hunter, General Counsel

SUBJECT: Authorization to file Vaughn Indices Under Section
102.118 of the Board's Rules and Regulations, as
amended

Section 102.118 of the Board's Rules and Regulations, as amended, inter alia, prohibits Board agents supervised by the General Counsel from giving testimony before the Board or any court with respect to any information coming to his or her knowledge in his or her official capacity or with respect to the contents of any files or records of the General Counsel, without the written consent of the General Counsel.

In connection with certain litigation under the Freedom of Information Act (FOIA), it is often required that the Agency file an inventory with the court, listing and describing the contents of a file which were not disclosed upon request. This inventory or index, originally required in Vaughn v. Rosen, 484 F.2d 820 (D.C. Cir. 1973), usually is accomplished with an affidavit. In addition, this index is often accompanied by other affidavits describing circumstances of creation or the use of the disputed documents in the Agency's processes. Although attorneys in the Special Litigation Branch in Washington routinely file such affidavits, field personnel can also be called upon to provide Vaughn indices. Written requests for authorization under Section 102.118 to provide affidavit testimony in the form of a Vaughn index are routinely granted.

Because requests to supply Vaughn indices routinely are granted and in order to lessen our paperwork burden, I have decided to issue a blanket authorization to field professionals and to Washington personnel working under my supervision to provide Vaughn indices in FOIA litigation to which the Board is a party. This authorization is conditioned upon a determination by the Assistant General Counsel for Special Litigation, that a Vaughn index and/or supporting affidavit is necessary and should be filed in the particular law suit. Where a field agent of the Board or employee of the Office of the General Counsel in Washington is requested by any party other than the General Counsel to provide a statement or to give testimony in FOIA litigation, specific authorization must be obtained from the General Counsel.


Jerry M. Hunter

cc: NLRBU

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